

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE: DEALER MANAGEMENT  
SYSTEMS ANTITRUST LITIGATION

This Document Relates To:

*ALL PENDING CASES*

MDL No. 2817  
Case No. 18-cv-00864

Hon. Robert M. Dow, Jr.  
Magistrate Judge Jeffrey T. Gilbert

**PUBLIC REDACTED  
VERSION**

**MDL PLAINTIFFS' RESPONSES TO  
DEFENDANTS CDK GLOBAL, LLC'S AND THE REYNOLDS AND REYNOLDS  
COMPANY'S JOINT STATEMENT OF COMMON UNDISPUTED MATERIAL FACTS  
IN SUPPORT OF THEIR MOTIONS FOR SUMMARY JUDGMENT**

ACA Motors, Inc., d/b/a Continental Acura; Baystate Ford Inc.; Cherry Hill Jaguar; Cliff Harris Ford, LLC, d/b/a Warrensburg Ford; Continental Autos, Inc., d/b/a Continental Toyota; Continental Classic Motors, Inc., d/b/a Continental Autosports; 5800 Countryside, LLC, d/b/a Continental Mitsubishi; HDA Motors, Inc., d/b/a Continental Honda; H & H Continental Motors, Inc., d/b/a Continental Nissan; JCF Autos LLC, d/b/a Stevens Jersey City Ford; Jericho Turnpike Sales LLC, d/b/a Ford & Lincoln of Smithtown; Marshall Chrysler Jeep Dodge, L.L.C., d/b/a Marshall Chrysler Jeep Dodge Ram; Naperville Zoom Cars, Inc., d/b/a Continental Mazda; NV Autos, Inc., d/b/a Continental Audi; Patchogue 112 Motors, LLC, d/b/a Stevens Ford; Waconia Dodge, Inc.; Warrensburg Chrysler Dodge Jeep, L.L.C., d/b/a Warrensburg Chrysler Dodge Jeep Ram Fiat (collectively, “Dealership Class Plaintiffs”) and Authenticom, Inc., Loop, LLC d/b/a AutoLoop, and Motor Vehicle Software Company (“MVSC”) (collectively, “Individual and Vendor Class Plaintiffs”)<sup>1</sup> respond as follows to Defendants CDK Global, LLC’s (“CDK”) and The Reynolds and Reynolds Company’s (“Reynolds”) (collectively, “Defendants”) Joint Statement of Common Undisputed Material Facts In Support of Their Motions for Summary Judgment (Dkt. 974) (“DJ SUF”). By conceding that a fact is undisputed pursuant to Local Rule 56.1, MDL Plaintiffs do not concede any argument regarding the admissibility or sufficiency of any specific evidence, the materiality of any fact asserted, or the legal significance of any fact or evidence. MDL Plaintiffs expressly reserve their right to challenge any fact or evidence Defendants proffer at trial regardless of whether they are disputed in these Responses. *See, e.g., Brown v. Navarro*, 2012 WL 3987427, at \*3 (N.D. Ill. Sept. 11, 2012).

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<sup>1</sup> The foregoing, including all Dealership Class Plaintiffs as well as the Individual and Vendor Class Plaintiffs, are referred to collectively herein as “MDL Plaintiffs.”

**MDL PLAINTIFFS' RESPONSES<sup>2</sup>**

1. Reynolds is an Ohio corporation, with its corporate headquarters in Ohio. Dkt. 225 (Reynolds Answer to Auth. Compl.) ¶ 21; Dkt. 522 (CDK Answer to Dealer Compl.) ¶ 52; Dkt. 514 (CDK Answer to AutoLoop Compl.) ¶ 32.

**RESPONSE:** Undisputed.

2. The ERA DMS was developed by Reynolds in the late 1980s. ERA also has an enhanced graphical user-interface version known as "ERA-IGNITE." [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

3. Reynolds natively developed the ERA DMS software code from the ground up. Ex. 107, 5/19/20 K. Hall Decl. ¶¶ 4, 8. In developing and programming the ERA DMS code, Reynolds chose between myriad available options to arrange and organize the code; myriad methods of programming specific functions and features; and myriad options for naming specific objects, functions, and processes within the code. *Id.* ¶¶ 4-8. Similarly, Reynolds chose from many possible

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<sup>2</sup> Unless otherwise noted as "DEALERSHIP CLASS PLAINTIFFS RESPONSE" or "INDIVIDUAL AND VENDOR CLASS PLAINTIFFS RESPONSE" all responses, whether prefaced by the word[s] "RESPONSE" or "JOINT MDL PLAINTIFFS RESPONSE" should be considered joint responses from MDL Plaintiffs.

<sup>3</sup> "Auth. Dkt." refers to docket entries in *Authenticom, Inc. v. CDK Global, LLC, et al.*, No. 3:17-cv-00318 (W.D. Wisc.). For the Court's convenience, copies of cited docket entries are included as exhibits.

alternatives in naming and organizing the data fields in the Reynolds DMS; while most franchised-dealer DMS products store broadly similar types of data, their naming and organization conventions do not map on to one another. Ex. 328, Lamb Tr. 187:9-12.

**RESPONSE:** Disputed in part. Undisputed that Reynolds developed and programed software code for its ERA DMS. Disputed insofar as Reynolds did not “natively develop[]” all of the “functions and features” of the ERA [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED] Ex. 105, R. Lamb Decl. [Auth. Dkt. 98] ¶ 3.

**RESPONSE:** Undisputed.

5. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] WEX 3, Cottrell 7/28/2020 Decl., ¶ 3.

6. In 2001, Reynolds created a program to manage third-party integration with the Reynolds DMS, initially called the “Performance Path,” and later renamed the “Reynolds Certified Interface” program in 2003. Ex. 104, R. Schaefer Decl. ¶ 30; Ex. 328, Lamb Tr. 78:5-13. [REDACTED]

[REDACTED] Ex. 100, Auth. P.I. Ex. 14 [Auth. Dkt. 64-14].

**RESPONSE:** Undisputed.

7. To join the RCI program, a vendor must sign a license agreement requiring them to describe their data uses and needs, adhere to Reynolds's data use policy, and agree to adhere to federal data security laws and regulations. [REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. Undisputed that vendors that join the RCI program must describe their "data uses and needs," but disputed that it accurately describes all the information that vendors must provide to Reynolds to join the RCI program. [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Ex. 19, K. Hall Decl. (DX 1282) ¶¶ 23-25, 30.

**RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

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<sup>4</sup> For clarity, all exhibits to the Declaration of Daniel Fenske (Dkt. 993) referenced by Defendants within Defendants Joint Statement of Common Undisputed Material Facts In Support of Their Motions for Summary Judgment (Dkt. 974) ("DJ SUF") are referred to in MDL Plaintiffs' responses with the prefix "FEX."

[REDACTED] See Plaintiffs' Statement of Additional Facts ("PJ SAF") ¶ 72.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. Undisputed that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

11. [REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

12. [REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

13. [REDACTED]

[REDACTED]

**MDL PLAINTIFFS JOINT RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

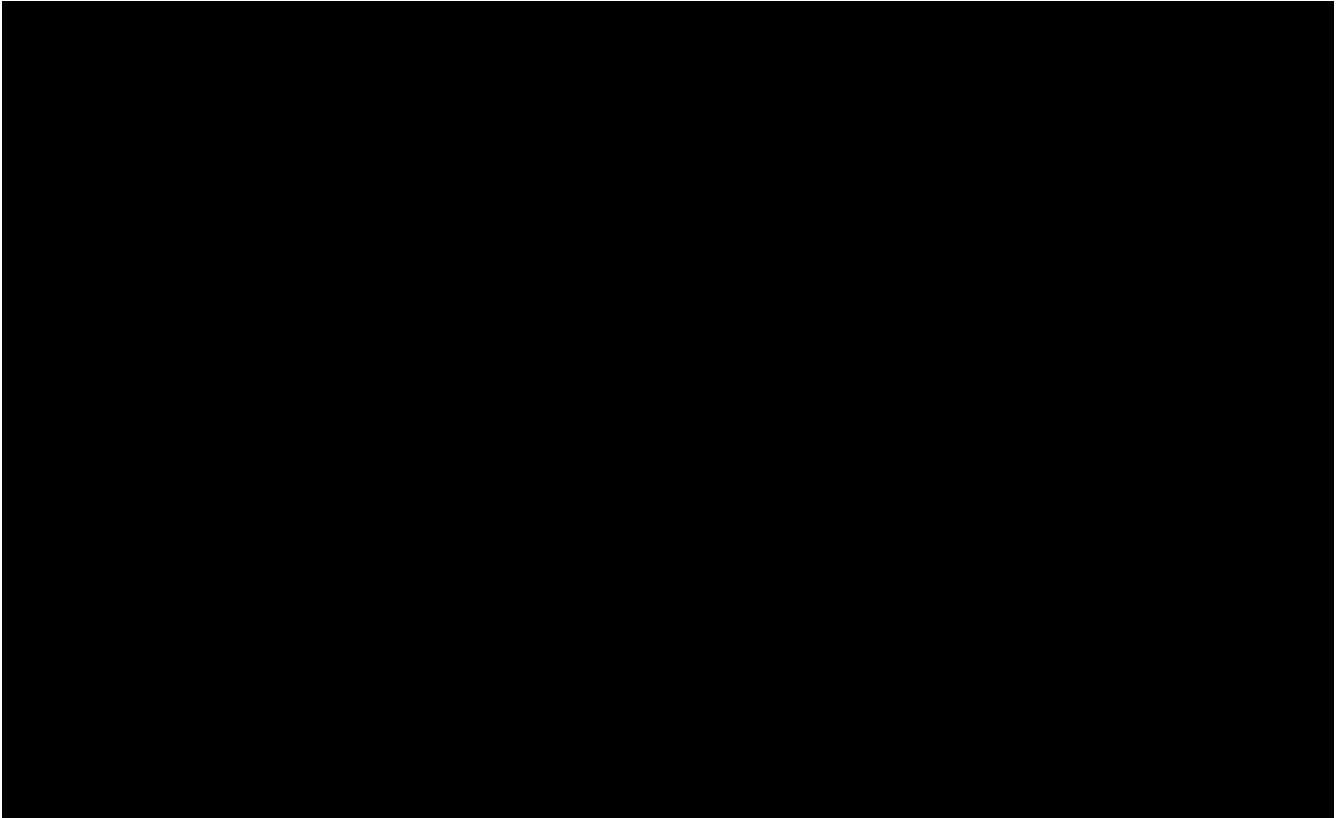
[REDACTED]

**INDIVIDUAL AND VENDOR CLASS PLAINTIFFS RESPONSE:** Further disputed  
that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



14. Reynolds's software applications have joined the certified integration programs of other DMS providers besides CDK, including Autosoft's Flex Connect, Dealertrack's OpenTrack, and Auto/Mate's OpenMate. [REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed that in recent years Reynolds has joined the certification programs of non-CDK DMS providers. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

15. Likewise, the applications of other DMS providers have joined RCI. [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed as to the specific applications set forth in the citations. Disputed insofar as Defendants’ statement is intended to mean “all” applications of other DMS providers.

16. CDK was formed in October 2014 when Automatic Data Processing, Inc. (“ADP”) spun off its Dealer Services division into a stand-alone, publicly traded company. Ex. 138, CDK-0000452 (CDK 10-K dated Aug. 9, 2016) (excerpt), at 457, 486 (spin-off “became effective” on Sept. 30, 2014, and common stock began trading under “CDK” symbol on Oct. 1, 2014).<sup>5</sup> CDK is organized under the laws of Delaware, and its corporate headquarters are in Illinois. Dkt. 230 (CDK Answer to Auth. Compl.) ¶ 20; Dkt. 522 (CDK Answer to Dealer Compl.) ¶ 51; Dkt. 514 (CDK Answer to AutoLoop Compl.) ¶ 31.

**RESPONSE:** Undisputed.

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<sup>5</sup> ADP’s former Dealer Services division is referenced herein as “ADP” when discussing events prior to the spinoff and “CDK” when discussing events after the spinoff.

17. CDK's primary DMS product is called Drive. Ex. 296, Ayotte Tr. 209:14, 210:4-8. Drive is a proprietary software system developed by CDK that includes five primary applications: Sales, Accounting, Parts, Service, and Finance and Insurance ("F&I"). Ex. 169, CDK-1996664 (2017 SOC-1 Report) at 9, 12. [REDACTED]

**RESPONSE:** Undisputed.

18. [REDACTED]

**RESPONSE:** Disputed in part. [REDACTED]

19. Drive is password protected and displays the following message to the user at the login screen: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. Undisputed that CDK began presenting users with the prompt identified in FEX 174 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**20.** CDK has developed processes to ingest raw data into a dealer's DMS, format and map the data as needed, and import that data into the relevant file or files (and relevant string or strings) in the DMS. CDK has also developed user interfaces so that DMS users can input or update data. Ex. 108, N. Rodrigues Decl. ¶ 4. Those interfaces validate and cleanse data, store the data, and push the data to the appropriate location on the DMS. *Id.*

**RESPONSE:** Objected to and disputed. Defendants rely solely on the declaration of Northon Rodrigues – which was filed along with Defendants' summary judgment papers – for the facts set forth in DJ SUF ¶ 20. Mr. Rodrigues was not on Defendants' initial Rule 26 disclosures; Plaintiffs therefore have not had an appropriate opportunity to challenge the facts asserted in DJ SUF ¶ 20. Moreover, Mr. Rodrigues's declaration points to no underlying records or documents



to substantiate his statements. *Hadley v. Du Page Cty.*, 715 F.2d 1238, 1243 (7th Cir. 1983) (reliance on a “bald assertion of the general truth of a particular matter” in an affidavit that fails to “cite specific concrete facts establishing the existence of the truth of the matter asserted” is insufficient to carry Defendants’ burden at summary judgment); *Eskridge v. Chi. Bd. of Edu.*, 47 F. Supp. 3d 781, 796 n.12 (N.D. Ill. 2014) (disregarding a “conclusory statement” in an affidavit that “lack[ed] support in the record and factual foundation”).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21. CDK has developed methods to query the DMS using “ENGLISH” or “ENG” Statements, a query language which users can enter through a command-line interface or through a program. Ex. 108, N. Rodrigues Decl. ¶ 5. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed. Defendants rely solely on the declaration of Northon Rodrigues – which was filed along with Defendants’ summary judgment papers – for the facts set forth in DJ SUF ¶ 21. MDL Plaintiffs object to Defendants’ reliance on Mr. Rodrigues’s declaration for the reasons set forth in their Response to DJ SUF ¶ 20.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

23. CDK's certified third-party access ("3PA") program was created in 2000. Ex. 181, CDK-2701801, Slide 4. [REDACTED]

[REDACTED]

**RESPONSE:** Undisputed

24. Vendors in the 3PA program enter into a standard written agreement with CDK called a Third Party Access Agreement (f/k/a Managed Interface Agreement) that gives them the right to use a trademarked "CDK Approved Interface" logo and, since at least 2006, has restricted them from receiving data sourced from the CDK DMS from outside the 3PA program once they

begin to use a 3PA interface. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**MDL PLAINTIFFS JOINT RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**INDIVIDUAL AND VENDOR CLASS PLAINTIFFS RESPONSE:** Disputed in part.

Undisputed that vendors in the 3PA program can use a CDK approved logo [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

25. Vendor applications certified in the 3PA program receive “bi-directional” (write-back) and real-time integration with CDK DMSs through “Pre-Defined Integration Points,” also called “PIPs,” which are configured to each application’s requirements [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. Undisputed that vendors in the 3PA program can pay for “bi-directional” or “write-back” integration [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

26. Vendors have acknowledged benefits of “direct” integration through CDK’s 3PA program. [REDACTED]

[REDACTED]

**RESPONSE:** Disputed. [REDACTED]

[REDACTED]

27. CDK acquired Digital Motorworks, Inc. in 2002 and later acquired IntegraLink (collectively, “DMI”) through its acquisition of the Cobalt Group in 2010. Ex. 296, Ayotte Tr. 236:4-10; Ex. 308, Distelhorst Tr. 20:11-24.

**RESPONSE:** Undisputed.

28. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**RESPONSE:** Disputed in part. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

29. [REDACTED]  
[REDACTED]

A series of horizontal black bars of varying lengths and positions, resembling a barcode or a stylized text representation. The bars are arranged in a vertical sequence, with some being solid and others appearing as dashed or fragmented lines. The overall pattern suggests a digital or data-related theme.



30. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

**RESPONSE:** Disputed in part [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

31. [REDACTED]

[REDACTED]

[REDACTED] Ex. 92, S. Cottrell Reply Decl. [Auth. Dkt. 143] ¶¶ 38-39 (noting that “Authenticom needs to run only a single bulk-data query per day to provide data integration services to the vast majority” of its customers and only 100 of Authenticom’s “more than 11,000” dealership customers needed data more than once per day); [REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

32. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** [REDACTED]

[REDACTED]

[illegible]

[REDACTED]

33. [REDACTED]

[REDACTED]

**RESPONSE:** Disputed. [REDACTED]

[REDACTED]

[REDACTED]

34. [REDACTED]

[REDACTED]

[REDACTED] Ex. 92, S. Cottrell Reply Decl. [Auth. Dkt. 143] ¶ 45 (“Nearly all of Authenticom’s business . . . does not ‘push’ data to the DMS but rather only reads data from the DMS.”); [REDACTED]

[REDACTED]

**RESPONSE:** Disputed. [REDACTED]

[REDACTED]

35.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

36.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

37. [REDACTED]

[REDACTED]

[REDACTED]

**DEALERSHIP CLASS PLAINTIFFS RESPONSE:** Objected to. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**INDIVIDUAL AND VENDOR CLASS PLAINTIFFS RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

38.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



39.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

40.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]



[illegible]

[REDACTED]

42. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed

43. Automated access by data extractors puts additional burden on a DMS. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**MDL PLAINTIFFS JOINT RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

44. [REDACTED]

[REDACTED]

- [REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

**RESPONSE:** Objected to. [REDACTED]

The image consists of a single, uniform black rectangle covering the entire area. There are no discernible features, text, or patterns.

[REDACTED]

[REDACTED]

45.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



46. [REDACTED]

[REDACTED]

**RESPONSE:** Objected to. [REDACTED]

[REDACTED]

47. [REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

48.

[REDACTED]

[REDACTED]

[REDACTED]

RESPONSE:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

49.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

50. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**RESPONSE:** Objected to and disputed. [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**51.** Third parties that attempt to write data back into the DMS (“writeback”) through non-certified interfaces can cause data corruption issues. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed in part. Objected to with regard to the admissibility of FEX 45. *See* Plaintiffs’ Response to DJ SUF ¶ 44.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**52.** CDK’s DMS and Reynolds’s DMS store consumer and dealership employee Personally Identifiable Information (“PII”) and Sensitive Personal Information (“SPI”) such as social security numbers, driver’s license numbers, and financial information—as well as consumer names, addresses, emails, telephone numbers, and financial information. Ex. 19, K. Hall Decl. (DX 1282) ¶¶ 8-9; Ex. 91, R. Karp Decl. [Auth. Dkt. 136] ¶ 25.

**RESPONSE:** Disputed in part. Undisputed that the DMS can store the cited information.

[REDACTED]

[REDACTED]

[REDACTED]

53. Third-party data extractors access consumer PII and/or SPI maintained in the DMS.

[REDACTED]

**RESPONSE:** Objected to and disputed. Objected to insofar as FEX 189 and FEX 246 are inadmissible hearsay. *See* Plaintiffs' Response to DJ SUF ¶ 44.

[REDACTED]



[REDACTED]

**54.** CDK's DMS and Reynolds's DMS include intellectual property and proprietary data that belongs to the DMS provider, OEMs, and other third parties. Ex. 338, Nielson Tr. 53:6-54:17; Ex. 19, K. Hall Decl. (DX 1282) ¶¶ 8-9; Ex. 91, R. Karp Decl. [Auth. Dkt. 136] ¶¶ 25, 28.

**RESPONSE:** Disputed in part. Undisputed that CDK's DMS and Reynolds's DMS include intellectual property and proprietary data that belongs to the DMS provider, OEMs, and

other third parties. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

55. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED]

56. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**57.** Some industry participants have expressed concern that data extractors sell data obtained from DMSs. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

58. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**DEALERSHIP CLASS PLAINTIFFS RESPONSE:** Objected to. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

59. Some third parties attempted to provide data extraction and writeback services by installing their own code on CDK's DMS. [REDACTED]

[REDACTED]

**RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**60.** Unauthorized code on a DMS, also referred to as “code-on-the-box,” can cause data corruption. [REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed in part. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**61.** Data security is important to the automotive industry. [REDACTED]

[REDACTED]

[REDACTED] Ex. 222, REYMDL00025313 (a 2006 Automotive News article reports that “[p]roblems arise when dealerships lose track of which vendors they have granted access to their computer systems. Some vendors have continued to extract information from dealership computer systems



long after contracts have expired. And the very nature of the hostile interface can cause . . . dealership systems to slow down, lock up and corrupt data”); Ex. 143, CDK-0207700 at 701 (a December 2014 article in The Banks Report states that “[i]t’s no secret in the automotive retail world that dealers are vulnerable to attacks”); Ex. 137, CDK-0000309 at 309-10 (2013 National Automobile Dealers Association memorandum on “Dealer Data Guidance”).

**RESPONSE:** Objected to and disputed in part. Objected to insofar as the assertion is so vague as not to be susceptible of a specific response. Undisputed that data security is important to the automotive industry, including to dealers and data integrators. Disputed to the extent Defendants suggest that dealers’ use of independent integrators increases the risk of a data breach. Over two decades, no independent integrator has caused a security or data breach at any automotive dealership. *See* PJ SAF ¶ 16. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

62. Some dealers adopted policies that restrict or prohibit third-party access to their licensed DMS [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**63.** On August 28, 2013, the National Automobile Dealers Association (“NADA”) issued a “Dealer Data Guidance” memorandum to dealers advising them that “[d]ealers collect a large volume of information from their customers in their day-to-day operations, with much of that information categorized under federal law as highly sensitive ‘non-public personal information’ or ‘NPPI.’ . . . This is important because the information’s status as NPPI means that the dealer is subject to several obligations under federal law to protect and maintain its privacy. [T]his customer and other sensitive data (together ‘Dealer Data’) raises difficult and sensitive issues for dealers that they must understand when they enter into contracts that could allow access to Dealer Data.” Ex. 137, CDK-0000309 at 309-10. The memorandum further advised dealers to “[c]onsider implementing a strict data ‘push’ system for sharing data . . . This means that you would only share data with third parties by gathering it, and sending it to them, rather than allowing them to ‘take’ it by accessing your systems.” *Id.* at 321.

**RESPONSE:** Disputed in part. Undisputed that on August 28, 2013, NADA issued a “Dealer Data Guidance” memorandum and that it contains that cited statements; that document speaks for itself. Disputed to the extent Defendants omit relevant portions of the Dealer Data Guidance that specifically address dealers’ use of vendors that access the DMS; rather than urging dealers not to use those vendors, NADA instead urges dealers to “conduct due diligence when selecting a service provider” and to “audit and monitor their access to ensure they are not in breach of [] contractual restrictions.” FEX 137, CDK-0000309 at 313-314. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**64.** A follow-up issued by NADA in 2014 encouraged dealers to “no longer allow vendors to access your systems directly for any reason” and to “work with your DMS provider to ensure proper controls and reporting.” Ex. 206, NADA-100234.

**RESPONSE:** Disputed in part. Undisputed that the 2014 NADA document contains the quoted language; that document speaks for itself. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**65.** Dealers license DMS software from CDK or Reynolds, and the scope of a dealer’s rights to that software are controlled by the terms of the DMS license agreement they sign. Ex. 170, CDK-2045637 (CDK Master Services Agreement) § 4(A) (“Client acknowledges that the

Products and Services . . . are and shall remain the exclusive and confidential property of CDK or the third parties for which CDK has obtained the right to use such CDK Products and Services, and that all CDK Products and Services are only licensed to Client during the term thereof.”); Ex. 253, REYMDL00677044 (Reynolds Master Agreement) §1 (“Reynolds . . . retains all proprietary rights in the Licensed Matter . . . including copyrights, patents and trade secrets.”); Ex. 234, REYMDL00131387 (Defined Terms) (defining “Licensed Matter”).

**RESPONSE:** Objected to and disputed in part. Objected to insofar as the dealer’s rights to the DMS software calls for a legal conclusion and is inappropriate for a Rule 56.1 statement. *See Judson Atkinson Candies, Inc. v. Latini-Hohberger Dhimantec*, 529 F.3d 371, 382 n.2 (7th Cir. 2008) (“It is inappropriate to make legal arguments in a Rule 56.1 statement of facts.”); *Gonzalez v. J. Salerno & Son, Inc.*, 2018 WL 1384106, at \*2 (N.D. Ill. Mar. 19, 2018) (same).

Undisputed that some dealers license DMS software from CDK or Reynolds pursuant to a license agreement. Disputed insofar as Defendants suggest that dealers’ rights to access and use their own data is “controlled” by the terms of the DMS license agreement; that is a legal question that is not appropriate for a Rule 56.1 statement.

**66.** The Reynolds Master Agreement does not authorize dealers to sublicense the Reynolds DMS, grant access to or share the DMS with any third parties, or connect any third-party software to the Reynolds DMS without Reynolds’s express written permission. These restrictions have been in place for more than 12 years. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] calls for a legal conclusion. *See Judson Atkinson Candies, Inc. v. Latini-Hohberger Dhimantec*, 529 F.3d 371, 382 n.2 (7th Cir. 2008) (“It is inappropriate to make legal arguments in a Rule 56.1 statement of facts.”); *Gonzalez v. J. Salerno & Son, Inc.*, 2018 WL 1384106, at \*2 (N.D. Ill. Mar. 19, 2018) (same).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

67. Since the 1990s, CDK’s standard DMS contract, known as the Master Services Agreement, has “bar[red] dealers from granting access to third parties.” [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed. Objected to because the question of whether CDK’s DMS contract bars dealers from granting access to third parties calls for a legal conclusion that is inappropriate for a Rule 56.1 statement. *See Judson Atkinson Candies, Inc. v. Latini-*

*Hohberger Dhimantec*, 529 F.3d 371, 382 n.2 (7th Cir. 2008) (“It is inappropriate to make legal arguments in a Rule 56.1 statement of facts.”); *Gonzalez v. J. Salerno & Son, Inc.*, 2018 WL 1384106, at \*2 (N.D. Ill. Mar. 19, 2018) (same).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

68. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed. Objected to insofar as Defendants rely on FEX 10 (DX 1710), which is inadmissible hearsay as offered by Defendants. Fed. R. Civ. P. 56(c)(2). Further objected to because FEX 10 lacks foundation insofar as it purports to describe CDK’s views and purports to state a legal opinion. *See Judson Atkinson Candies, Inc. v. Latini-Hohberger Dhimantec*, 529 F.3d 371, 382 n.2 (7th Cir. 2008) (“It is inappropriate to make legal arguments in a Rule 56.1 statement of facts.”); *Gonzalez v. J. Salerno & Son, Inc.*, 2018 WL 1384106, at \*2 (N.D. Ill. Mar. 19, 2018) (same).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

69. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

70.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

71.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

**72.**

\_\_\_\_\_

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

73. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

74. [REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

75.

[REDACTED]

**RESPONSE:** Undisputed.

76.

[REDACTED]

77.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

78. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

79. Authenticom has never entered into a license agreement with Reynolds or CDK to use of any of their respective DMS software. Ex. 102, H. Gardner Decl. [Auth. Dkt. 93] ¶ 27; Ex. 327, Kirby Tr. 161:11-166:25; Ex. 318, Hembd Tr. 120:22-121:16; Ex. 303, Clements Tr. 99:22-103:16; Ex. 301, Brown 30(b)(6) (Authenticom) Tr. 200:11-203:8. Authenticom has never paid any money or provided other consideration to Reynolds or CDK for use of their respective DMS software. Ex. 303, Clements Tr. 101:19-103:12.

**RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

80. At the time of the 2006 merger between UCS and Reynolds, UCS's POWER DMS had a reputation within the industry as a secure, closed DMS platform. [REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. Undisputed that, prior to the 2006 merger, UCS had a reputation within the industry as being relatively more closed to access by data integrators and third parties. Undisputed that, after the merger, Reynolds began to take steps to interrupt access by data integrators and thus become a more "closed" system.

[REDACTED]

[REDACTED]

**81.** By no later than 2006, Reynolds had decided to (1) restrict third-party access to its DMSs and (2) promote methods of data transfer either through manual-dealer-push or monitored, certified integration. [REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed in part. [REDACTED]

[REDACTED]



[REDACTED]

82. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

83. Prior to September 2013, Reynolds had implemented multiple technical measures designed to prevent automated access to its DMS by data extractors and other third parties, including: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

**84.** [REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed in part. Objected to because the statements in the cited exhibits are inadmissible hearsay as offered by Defendants. Fed. R. Civ. P. 56(c)(2).

Undisputed that the cited exhibits contain the quoted statements. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

85. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

86.

[REDACTED]

**RESPONSE:** Undisputed.

87.

[REDACTED]



[illegible]

88. Since 2006, Reynolds has not reconsidered its decision to prohibit unauthorized third-party access to its DMS [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[illegible]

[REDACTED]

89.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

90. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to in part and disputed. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

91. [REDACTED]

[REDACTED]

RESPONSE: [REDACTED]

[REDACTED]

92. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

93. [REDACTED]

[REDACTED]

[illegible]

**94.** Superior Integrated Solutions (“SIS”) historically provided data extraction services on the Reynolds and CDK DMSs, but does not offer its own DMS. Ex. 298, Battista 30(b)(6) (SIS) Tr. 7:12-8:4, 71:21-72:15, 332:2-333:334:1.

**RESPONSE:** Undisputed.

**95.** In 2012, Reynolds sued SIS in United States District Court (S.D. Ohio) alleging:

(1) violations of the Copyright Act, 17 U.S.C. § 101 *et seq.*; (2) violations of the Computer Fraud



and Abuse Act, 18 U.S.C. § 1030 *et seq.*; and (3) tortious interference with Reynolds's DMS contract, which "prohibits customers from allowing third party integrators like SIS to access or to interface with the ERA DMS without Reynolds' consent." Ex. 89, REYMDL00015586 (Complaint) ¶¶ 23-57. The court dismissed SIS's antitrust counterclaims and held that Reynolds's DMS contracts prohibit third-party access. *See The Reynolds & Reynolds Co. v. Superior Integrated Sols., Inc.*, 2013 WL 2456093, at \*2 (S.D. Ohio June 6, 2013).

**RESPONSE:** Undisputed that Reynolds sued SIS, in November 2012, in the United States District Court for the Southern District of Ohio. The pleadings and resulting court opinion regarding Reynolds's motion to dismiss speak for themselves.

96. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

97. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

98. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**99.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

100.

[REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

101. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]





[illegible]



**103.**

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**104.**

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\_\_\_\_\_

\_\_\_\_\_

The image consists of a single, uniform black rectangle covering the entire area. There are no discernible features, text, or patterns.

105.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

106.

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

107. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]



[illegible]

109.

**109.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

110. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

111.

[REDACTED]

**RESPONSE:** Undisputed.

112.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

113. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

114. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

115. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

116. On February 18, 2015, CDK and Reynolds entered into the Data Exchange Agreement (“DEA”), the 3PA Agreement, and the Reynolds Interface (“RCI”) Agreement. Ex. 49, PX 33 (CDK-0000001); Ex. 50, PX 34 (CDK-0000014); Ex. 51, PX 35 (CDK-0000040) (“2015 Agreements”).

**RESPONSE:** Undisputed.

117. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**118.** The 2015 Agreements allowed Reynolds to reduce hostile access to its DMS with minimal disruption to its dealer customers and other third parties. [REDACTED]



[illegible]



[illegible]

**119.** Under section 4.3 of the DEA, DMI and IntegraLink were permitted to continue to access and extract data from Reynolds DMSs in a monitored fashion “without interruption from Reynolds security enhancements” during a “Wind Down Period,” defined in section 1.4 of the DEA as “beginning on the Effective Date of this Agreement and concluding on the later of: (i) the end of the current term of such DMI Third Party Client’s agreement with DMI . . . up to a maximum

of one year,” with some exceptions, or (ii) May 13, 2015. The “Wind Down Period” was subject to extension by Reynolds, at its discretion, not to exceed five years from the Effective Date of the DEA. Ex. 49, PX 33 (CDK-0000001) §§ 1.4, 4.3.

**RESPONSE:** Undisputed that the quoted language appears in the DEA, the interpretation of which raises a matter of law

**120.** Under section 4.1 of the DEA, during this wind-down period, CDK agreed to “reasonably cooperate with Reynolds’ efforts, if any, to have DMI [vendor clients] execute agreements to become part of the Reynolds RCI Program.” Ex. 49, PX 33 (CDK-0000001) § 4.1.

**RESPONSE:** Disputed in part. Undisputed that the quoted language appears in the DEA, the interpretation of which raises a matter of law. Disputed to the extent that Defendants mischaracterize the DEA by omitting other portions of the agreement, including § 4.4, which also requires CDK to “reasonably assist and cooperate with Reynolds, with respect to: (1) communication with DMI Third Party Clients, Their Reynolds Dealer customers, and the automotive industry in general during the Wind Down Period; (2) Reynolds’ development and testing of interfaces for DMI Third Party Clients Who choose to join the Reynolds RCI Program: and (3) The transition of such customers to the Reynolds RCI Program with Respect to Reynolds Dealers.

**121.** Under section 4.2 of the DEA, CDK agreed to inform DMI clients that it intended to “wind down” its “Reynolds DMS related integration and does not intend to extend service for such integration beyond the current primary term of its agreement” with each client. Ex. 49, PX 33 (CDK-0000001) § 4.2. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. Undisputed that Section 4.2 of the DEA – titled “Third-Party Communications” – contains the quoted language, the interpretation of which raises a question of law. Disputed to the extent that Defendants mischaracterize the DEA by omitting other portions of the agreement, Section 4.2 also obligated CDK to “express[] words to the effect that CDK looks forward to doing its part to ease each CDK Third Party Client’s transition way from CDK’s integration with respect to dealers using the Reynolds DMS” and (2) to provide Reynolds with “contract information” for CDK’s vendor clients “for purposes of any inquiries regarding the Reynolds Certified Interface (‘RCI’) program.” FEX 49, PX 33 (CDK-0000001), § 4.2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**122.** Pursuant to section 4.3 of the DEA, CDK agreed to provide “a list of Reynolds

Dealers System Numbers and the DMS User Logins being used by CDK for each Dealer for whom such Interim Solution is needed; and (ii) the information described in Exhibit DEA-2” for DMI Third Party Clients. Ex. 49, PX 33 (CDK-0000001) § 4.3, Ex. DEA-2.

**RESPONSE:** Undisputed that Section 4.3 contains the quoted provisions, the interpretation of which raises a matter of law. Disputed to the extent that Defendants mischaracterize the DEA by omitting other portions of the agreement. Section 4.3 provision also provided that CDK was entitled to “continue providing its integration services through DMI in accordance with its contracts without interruption from Reynolds security enhancements” and that Reynolds “shall not take measures to block or otherwise disrupt DMI’s normal Reynolds DMS access during such Wind Down Period.” FEX 49, PX 33, CDK-0000001, § 4.3.

**123.** Under section 4.5 of the DEA, CDK and Reynolds agreed not to “sell, transfer or assign to any affiliate or third party any technology, business process, or other such knowledge regarding integration with the other party’s DMS or take any other steps to assist any person that it reasonably believes to have plans to access or integrate with the other party’s DMS without the other party’s written consent.” Ex. 49, PX 33 (CDK-0000001) § 4.5.

**RESPONSE:** Undisputed that Section 4.5 contains the quoted language, the interpretation of which raises a matter of law. Disputed to the extent that Defendants mischaracterize the DEA by omitting other portions of the agreement. Section 4.5 also provided: “For the avoidance of doubt, this Section 4.5 is not intended as a ‘covenant not to compete,’ but rather as a contractual restriction of access and attempted access intended to protect the operational and data security integrity of the Reynolds DMS and the CDK DMS and protection of intellectual property.” FEX 49, PX 33, CDK-0000001, § 4.5. Section 4.5’s “contractual restriction of access” never expires.

*Id.* § 6.1 (“With the exception of the obligations set forth in sections 4.5 [Prohibition on Knowledge Transfer and DMS Access] . . . this Agreement shall terminate at the end of the Wind Down Period.”).

124

125.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



126.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

127.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**128.** Pursuant to the 3PA Agreement, nine Reynolds applications—Naked Lime Web, Naked Lime Marketing, Reminder Trax, iMakeNews, xTream, AIM Data, KeyVault, KeyTrack, and KeyRegister—became eligible for the 3PA program. Ex. 50, PX 34 (CDK-0000014), Exs. 3PA-B & 3PA-C.

**RESPONSE:** Undisputed.

**129.** Under sections 3(a)-(b) of the 3PA Agreement, CDK waived 3PA fees for Reynolds applications for up to 600 CDK dealership rooftops, for five years (the “No Fee” term). At the conclusion of the five-year “No Fee” term and, additionally, for any rooftops served by Reynolds applications during the “No Fee” term above the 600 rooftop “cap,” Reynolds agreed to pay CDK’s standard 3PA fees for installation and monthly services. Ex. 50, PX 34 (CDK-0000014) § 3.

**RESPONSE:** Undisputed that the 3PA agreement contained the “No Fee Term” provision, which states that “CDK shall not charge [Reynolds] any fees under this Agreement” up to the 600-dealer cap. FEX 50, CDK-0000014 (PX 34) § 3(a).

**130.** [REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

**131.** Pursuant to the RCI Agreement, seven CDK applications—Cobalt, MenuVantage, PartsVoice, F&I Results, Lot Management, DLS Accelerator, and Performance 20—became eligible for the RCI program. Ex. 51, PX 35 (CDK-0000040), Exs. RCI A1-A7.

**RESPONSE:** Undisputed.

132. [REDACTED]

[REDACTED]

[REDACTED]

133. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

134.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

135.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

136. [REDACTED]

[REDACTED]

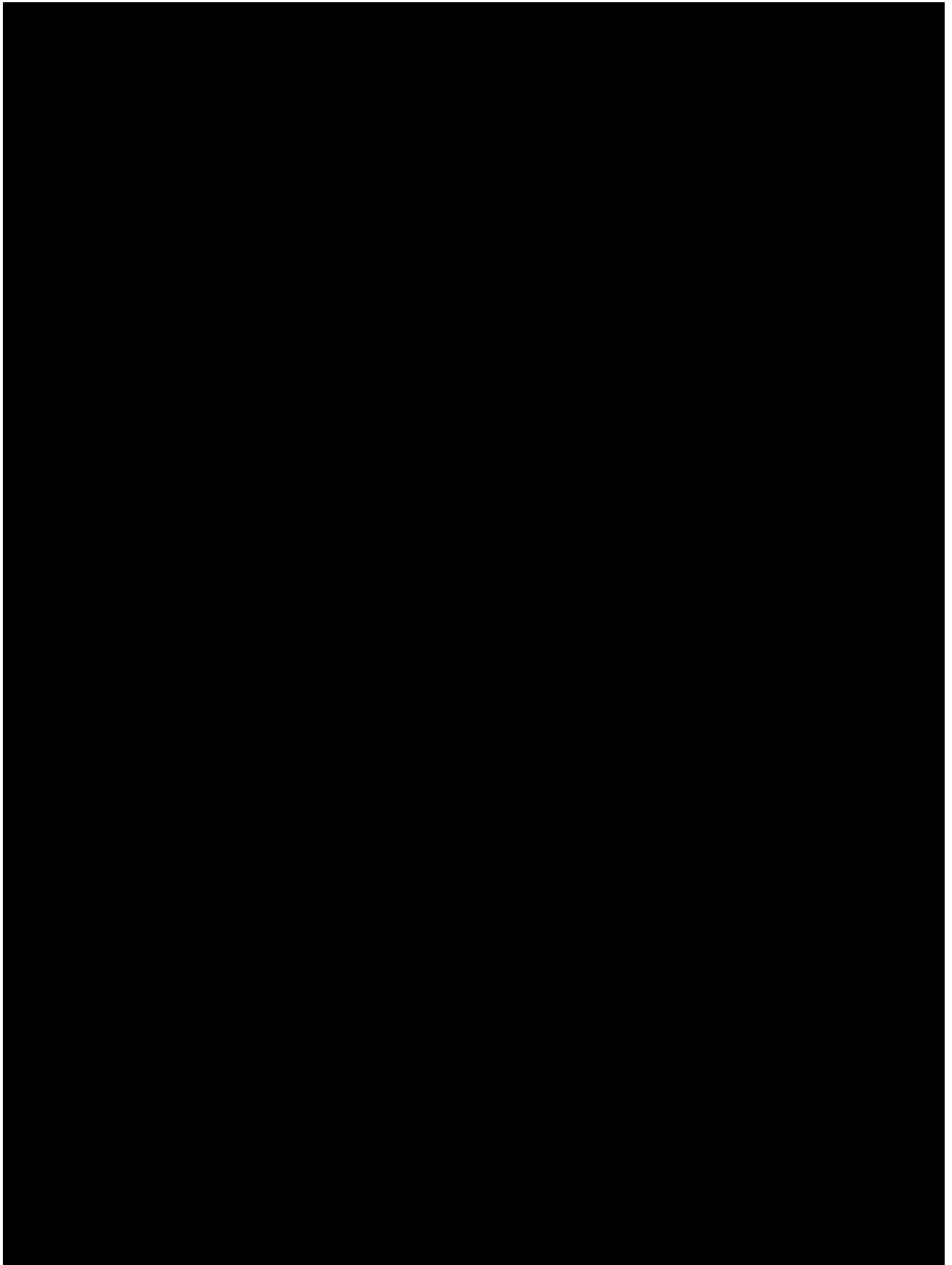
[REDACTED]

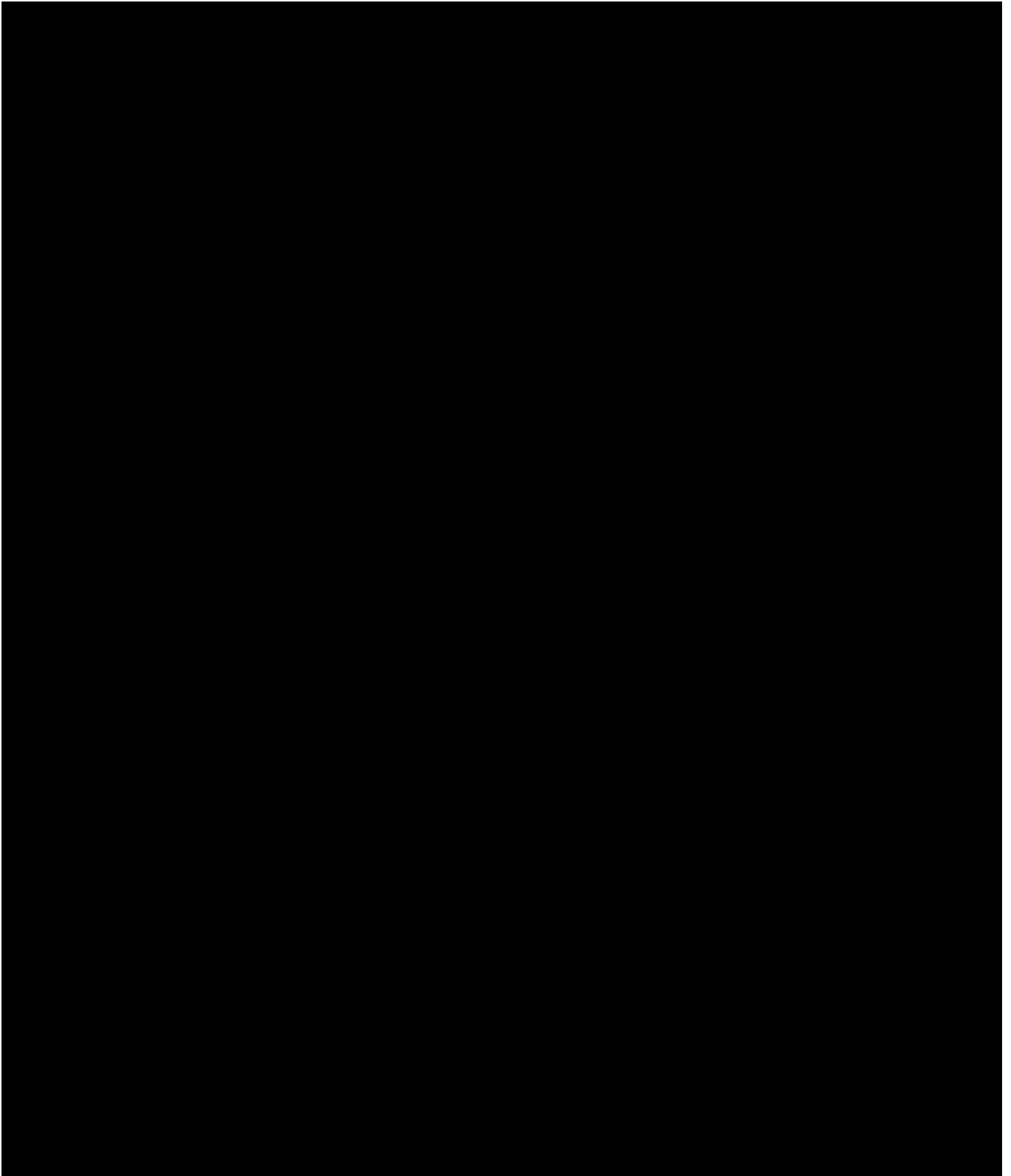
**RESPONSE:** Undisputed.

137. [REDACTED]

[REDACTED]

[REDACTED]







[REDACTED]

**RESPONSE:** Undisputed that the documents contained the quoted statements.

138. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

139. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

140. [REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

**141.** In 2007, ADP DMSs were maintained by dealers on-site (or “on premises”) and third parties accessed the DMS using dealer-provided modems, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed in part. Undisputed that, in 2007, CDK DMSs were maintained by dealers on-site and that third parties connected through dealer-provided modems.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**142.** In approximately 2008 and 2009, ADP began migrating its DMS software to a “hosted” environment in which CDK maintained each customer’s DMS on servers operated by CDK. [REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. Undisputed that, in 2008 or 2009, CDK migrated to “hosted” servers.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

143. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

134

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

145. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

146. [REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

147. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed in part. Objected to insofar as the statements cited in FEX 164 and FEX 157 are hearsay as offered by Defendants. Fed. R. Civ. P. 56(c)(2).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

148. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

149. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

**150.** Malcolm Thorne was selected to serve as CDK's Chief Global Strategy Officer beginning in summer 2014 and continuing after the spinoff. Ex. 354, Thorne Tr. 27:19-28:3.

**RESPONSE:** Undisputed.

151. [REDACTED]

**RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

152. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

153. On April 10, 2014, ADP publicly announced the spinoff. Ex. 190, CDK-2990551.

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to in part. Undisputed as to the first sentence. Objected to insofar as the quoted statement in FEX 188 is hearsay as offered by Defendants. Fed. R. Civ. P. 56(c)(2).

[REDACTED]

154. An SEC Form 10 filed on June 10, 2014, for “Dealer Services Holdings LLC” identifies the following Risk Factors, among others, for CDK following its spinoff:

Additionally, concerns regarding data privacy may cause our clients, or their customers and potential customers, to resist providing the data necessary to allow us to deliver our solutions effectively. Even the perception that the privacy of personal information is not satisfactorily protected or does not meet regulatory requirements could inhibit sales of our solutions and any failure to comply with such laws and regulations could lead to significant fines, penalties or other liabilities. Moreover, if our security measures are breached and unauthorized access is obtained to confidential information, our solutions may be perceived as not being secure and our clients may curtail or stop using our solutions and/or vendors may curtail or stop providing their solutions to us. Any failure of, or lack of confidence in, the security of our solutions could have a material adverse effect on our business, results of operations and financial condition. . . .

Ex. 162, CDK-1202029 (excerpt) at 055, 057.

**RESPONSE:** Undisputed.

155. On October 1, 2014, ADP announced that it had completed its spinoff of CDK. *See* Ex. 85, (Press Release, “ADP Completes Spinoff of CDK Global”). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Objected to and disputed in part. Undisputed as to the first sentence.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

156. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

157. [REDACTED]

[REDACTED]



[illegible]

The image is entirely black and contains no visible content.

[illegible]

**158.** SecurityFirst was publicly announced in June 2015. Ex. 44, PX 1563 (CDK-0012615); Auth. Answer to CDK Counterclaims [Dkt. 516] ¶ 81 (“Authenticom admits that, in June 2015, CDK announced a strategy it marketed as ‘Security First.’”). [REDACTED]

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**RESPONSE:** Disputed in part. Undisputed as to the first sentence.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**159.** CDK did not begin implementing security measures designed to prevent access to its DMS until March 2016. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Disputed in part. Undisputed that CDK did not begin using technological measures to block independent integrators until March 2016. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

160. [REDACTED]

[REDACTED]

**RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**161.**

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

**162.**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

163. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

164. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

165. [REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

166. In addition to CDK and Reynolds, other DMS providers including Dealertrack, Auto/Mate, Autosoft, DealerBuilt, and Dominion Dealer Solutions compete for franchised automobile dealers. Ex. 105, R. Lamb Decl. [Auth. Dkt. 98] ¶¶ 7-8.



**RESPONSE:** Disputed in part. Undisputed that the listed DMS providers compete for franchised automobile dealers [REDACTED]

[REDACTED]

[REDACTED]

167. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

168. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

169.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

170.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

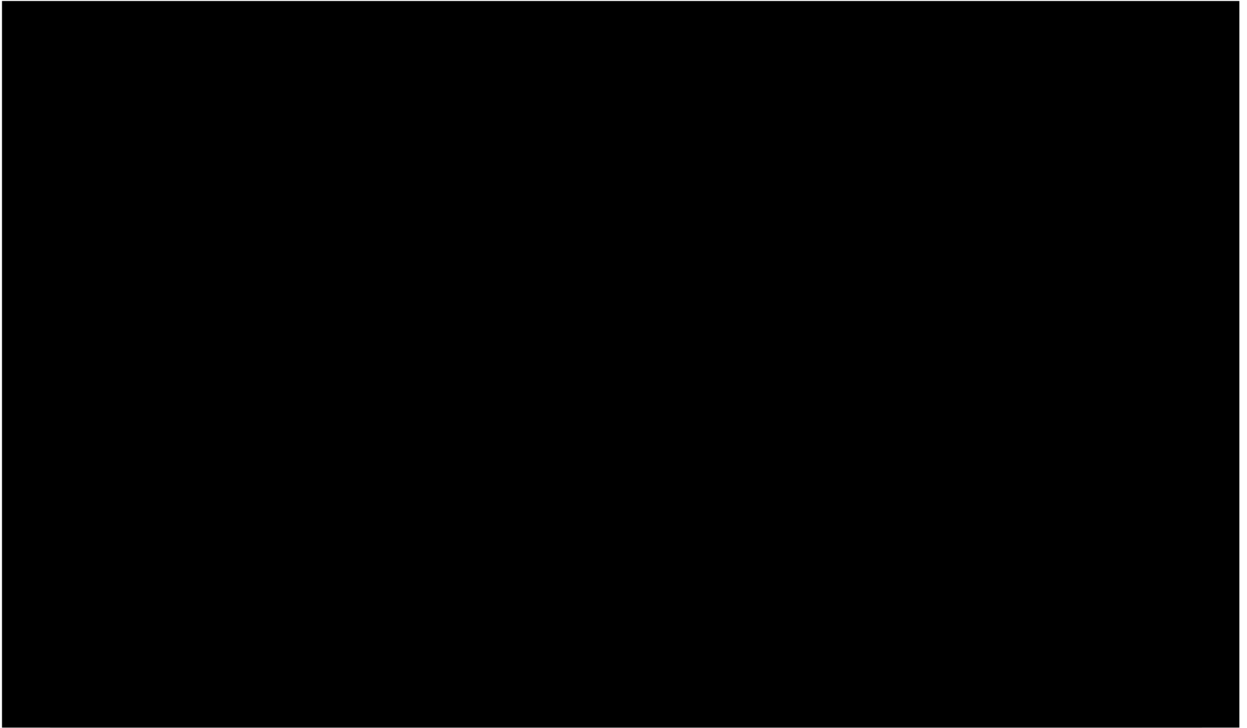
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

171. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

172. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

173.

[REDACTED]





[REDACTED]

[REDACTED]

174. CDK and Reynolds competed for DMS customers throughout the period of the alleged conspiracy. [REDACTED]

[REDACTED]



175. DMS providers offer discounts, training, and transition support to win business.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

176. Many dealers begin proactively negotiating with their existing DMS provider and competing providers a year or more before the end of their current DMS contract. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

177. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** Undisputed.

178. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Cox also provides an online calculator for dealers to calculate their integration fees and how much they could save by switching to Dealertrack. *See* Ex. 86 (<https://cloud.e.dealertrack.com/calculator>).

**RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Undisputed that Cox also provides an online calculator for dealers to calculate their integration fees and how much they could save by switching to Dealertrack.

**179.** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

180. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

RESPONSE: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

181. Dealerships often hire third-party consultants that specialize in DMS contract negotiations, including the Gillrie Institute, David Brookshire, and others, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

182. [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

---

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

183. [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

184. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





[illegible]

170

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

187,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

188. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RESPONSE:** [REDACTED]

[REDACTED]

[REDACTED]

189. [REDACTED]

- [REDACTED]  
[REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]  
[REDACTED]
- [REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

190. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

191. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

192.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

193.

[REDACTED]

[REDACTED]

[REDACTED]



**RESPONSE:** Undisputed.

**194.** CDK and Reynolds witnesses consistently testified under oath that they did not enter into the alleged conspiratorial agreements on behalf of their respective companies and had no knowledge of any such agreements. Ex. 296, Ayotte Tr. 344:21-23; Ex. 299, Brockman Tr. 348:10-351:9; Ex. 302, Burnett (Individual) Tr. 348:2-352:14; Ex. 305, Conner Tr. 422:3-423:14; Ex. 308, Distelhorst Tr. 352:7-353:7; Ex. 309, Douglas Tr. 287:13-288:21; Ex. 312, French Tr. 375:9-377:3; Ex. 313, Gardner Tr. 635:23-637:21; 639:15-640:2; 642:20-643:13; 650:18-651:22; 653:3-7; 653:18-24; Ex. 314, Gerlich Tr. 281:21-282:16; Ex. 315, Graham Tr. 333:16-335:12; Ex. 316, Hall 30(b)(6) (Reynolds) Tr. 225:22-227:2, 228:8-24, 233:5-15; Ex. 292, Hellyer Tr. 335:10-336:21; Ex. 319, Herbers Tr. 309:13-310:22; Ex. 320, Hill (Individual) Tr. 19:11-13, 58:19-23, 59:15-20; Ex. 325, Joza Tr. 302:19-303:13; Ex. 326, Karp Tr. 395:21-396:13; Ex. 328, Lamb Tr. 340:6-343:7; 348:25-349:23; 351:17-353:2; Ex. 331, Martin Tr. 319:20-321:5; Ex. 333, McCray Tr. 65:6-8; 70:17-73:8; 111:5-112:4; 285:10-15; 286:14-19; 317:9-319:1; Ex. 339, Noser Tr. 299:14-301:21; Ex. 342, Quinlan Tr. 258:8-260:4; Ex. 346, Schaefer (Day 1) Tr. 270:18-271:2, 279:10-279:14; Ex. 347, Schaefer (Day 2) Tr. 306:10-308:4, 311:18-312:22; Ex. 349, Sowers Tr. 235:2-237:2; Ex. 352, Strawsburg Tr. 147:11-149:3; 219:13-21; Ex. 354, Thorne Tr. 364:23-368:3; Ex. 97, Witt Tr. 258:13-260:22; Ex. 103, Workman Tr. 323:19-326:10.

**RESPONSE:** Objected to and disputed in part. Undisputed that Defendants' witnesses (aided by questions from Defendants' counsel on re-direct) gave conclusory denials of the existence of a conspiracy not to compete on DMS openness and to block independent integrators.

Disputed that such self-serving, conclusory denials are probative of whether a conspiracy actually existed. Further disputed insofar as those denials contradict the evidence showing that there was a conspiracy between CDK and Reynolds to block data integrators, including specifically Authenticom. PJ SAF ¶¶ 35-46, 49-51, 53-54.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Dated: July 28, 2020

/s/ Peggy J. Wedgworth

Peggy J. Wedgworth

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Respectfully submitted,

/s/ Derek T. Ho

Derek T. Ho

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*MDL Co-Lead Counsel*

**CERTIFICATE OF SERVICE**

I, Peggy J. Wedgworth, an attorney, hereby certify that on July 28, 2020 I caused a true and correct copy of the foregoing **MDL PLAINTIFFS' RESPONSES TO DEFENDANTS CDK GLOBAL, LLC'S AND THE REYNOLDS AND REYNOLDS COMPANY'S JOINT STATEMENT OF COMMON UNDISPUTED MATERIAL FACTS IN SUPPORT OF THEIR MOTIONS FOR SUMMARY JUDGMENT** to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF system. Copies of the Under Seal filing were served on counsel of record via email.

/s/ Peggy J. Wedgworth

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